

**MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE CITY OF SANTA FE**

ITEM # 15-1213

THIS AGREEMENT is entered into this 4th day of ~~December~~ 2015, between the **County of Santa Fe**, a political subdivision of the state of New Mexico, hereinafter referred to as the "County," and the **City of Santa Fe**, a municipal corporation, hereinafter referred to as the "City".

WHEREAS, the County entered into a Memorandum of Agreement (MOA) with the Federal Highway Administration Central Federal Lands Highway Division (FHWA-CFLHD), the USDA Forest Services (FS), and the Bureau of Land Management (BLM) which provides for the FHWA-CFLHD's design and construction of the Buckman Road Segment of the El Camino de Tierra Adentro National Historic Trail (the "Project"); and

WHEREAS, according to the MOA, the cost of the preliminary engineering, construction contract and construction engineering, including a 10% contingency, is \$4,286,000.00. As agreed to in the MOA, the Project will be funded with a Federal Land Access Program (FLAP) grant whereby the County will provide a 14.56% match and the FHWA-CFLHD will fund 85.44% of the Project costs for preliminary engineering, construction contract and construction engineering; and

WHEREAS, Phase I of the Project is a 10 foot wide multi-use trail beginning at a junction with the Santa Fe River Greenway. Phase I will proceed north from the Santa Fe River Greenway trail and under NM Highway 599 through an existing multi-use trail underpass and then run parallel to the west side of Caja Del Rio Road to CR62 to the north side of the Marty Sanchez Links de Santa Fe Golf Course. From there Phase I of the Project will parallel the north side of CR62 to the Santa Fe National Forest Boundary where it will join CR 62 at the junction with Forest Road 24 ; and

WHEREAS, Phase II of the Project is a 30 inch wide natural surface recreational trail that will follow the historic route of the El Camino Real de Tierra Adentro National Historic Trail from the USFS Headquarters trailhead and continue north to a trailhead at the existing parking area for the USFS Dead Dog Trail. Phase II of the Project will proceed north and parallel Old Buckman Road (CR77) and continuing to follow the historic alignment of El Camino Real de Tierra Adentro National Historic Trail to the BLM Diablo Canyon trailhead; and

WHEREAS, design and construction of the Project is expected to be completed over a period of three years; and

WHEREAS, in 1999 the City of Santa Fe was granted right-of-way Easement No. 26839 from the New Mexico State Land Office for the exclusive purpose of the construction, operation and maintenance of a public multiuse trail on State Trust Lands from a location east of San Felipe Road on Agua Fria Street, and north across the Santa

Fe River through the underpass of NM 599 and along Caja Del Rio Road to the northern section line of T.16 N., R.8.E, Sec. 2.; and

WHEREAS, in 1998 the City of Santa Fe was granted a patent No. 30-98-0262 from the Bureau of Land Management under the Recreation and Public Purposes Act for the property known as the Municipal Recreation Sports Complex (MRC); and

WHEREAS, on September 23, 2014 the Santa Fe City Council allocated \$150,000.00 in general obligation bond funding for Phase I of the Project that is within the City of Santa Fe's Metropolitan Planning Organization's 2012 Bicycle Master Plan and is known as the "MRC Trail"; and

WHEREAS, portions of Phase I of the Project are within the City's right-of-way Easement No. 26839 and the patent No. 30-98-0262; and

WHEREAS, the County and City wish to enter into this MOA to provide for their agreement and joint funding of the County's 14.56% local match to fund Phase I of the Buckman Road Segment of the El Camino de Tierra Adentro National Historic Trail and to demonstrate the collaborative nature of regional trail building.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES:

1. DUTIES OF THE PARTIES:

A. The County will:

1. Enter into Reimbursable Agreement DTFH68-15-E-00018 with FHWA that provides for the County's local match of Six Hundred Twenty Four Thousand Forty One Dollars and Sixty Cents (\$624,041.60) of the total project cost of Four Million Two Hundred Eighty Six Thousand Dollars (\$4,286,000.00) for preliminary engineering (project development), construction contract and construction engineering (administration and oversight of the construction contract) for the El Camino de Tierra Adentro National Historic Trail from the Santa Fe River Greenway to Diablo Canyon. The Reimbursable Agreement provides for the procedure by which FLAP-CFLHD will issue monthly billings to the County for 14.56% of the total project cost.
2. Enter into a Project Memorandum of Agreement with the FLAP that provides for the roles and responsibilities of the County, USDA Forest Service, BLM and FHWA-CFLHD for FHWA-CFLHD's construction of the Buckman Road Segment of El Camino Real de Tierra Adentro National Historic Trail from the Santa Fe River Greenway to Diablo Canyon.

3. Maintain the completed Project as provided in the Project Memorandum of Agreement referenced in 2 above subject to the maintenance obligation stated in B. 6 below.
4. Obtain from the City and the New Mexico State Land Office any temporary construction easements needed for the construction of Phase I of the Project from the Santa Fe River Greenway to Caja Del Rio Road and north to T.16 N., R.8.E, Sec. 2, Lot 23, N.M.P.M.
5. Cooperate with the City in obtaining approval from the State Land Office for FHWA-CFLHD to construct Phase I of the Project within a portion of right-of-way Easement No. 26839.
6. Cooperate with the City in obtaining approval from the BLM for FHWA-CFLHD to construct Phase I of the Project within a portion of patent Number 30-98-0262.
7. Facilitate and promote the City's involvement in the planning, design and construction by FHWA-CFLHD of Phase I of the Project.
8. Invoice the City for costs incurred and related to the design and construction of Segment 2 of the Project from the Santa Fe River Greenway to Caja Del Rio Road towards the MRC. The County will not invoice the City for costs or expenses in an amount more than the City's contribution of One Hundred Fifty Thousand Dollars (\$150,000.00).

B. The City will:

1. Provide funding in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) to be available to reimburse the County for expenses incurred and related to the design and construction of Phase I of the Project.
2. Cooperate with the Project's federal lead agencies and Santa Fe County to obtain approval from the State Land Office for FHWA-CFLHD to construct Phase I of the Project within portions of right-of-way Easement No. 26839.
3. Cooperate with the Project's federal lead agencies and Santa Fe County to obtain approval from the Bureau of Land Management for FHWA-CFLHD to construct Phase I of the Project within portions of patent Number 30-98-0262.
4. Cooperate with the County in reviewing and consulting with the County on the design and construction by FHWA-CFLHD of Phase I of the Project.
5. In accordance with 1.A.7 above, reimburse the County within 30 days of the date of receipt of an invoice from the County.

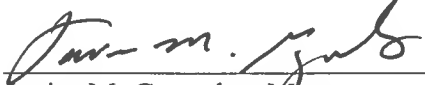
6. Provide long term maintenance of the portions of Phase I of the Project that are within right-of-way Easement No. 26839 and patent Number 30-98-0262 and in accordance with the City's duties and responsibilities described in Easement No. 26839 and patent No. 30-98-0262.
2. **EFFECTIVE DATE AND TERM:** This Agreement shall become effective on the date of execution by the City and County, whichever occurs last. The term of this MOA shall be from the date of execution until completion of Phase I of the Project from the Santa Fe River Greenway north to Caja Del Rio Road toward the MRC, unless earlier terminated pursuant to Section 3 (Termination) or 6 (Appropriations) below.
3. **TERMINATION:** This Agreement may be terminated by any of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.
4. **LIABILITY:** Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation of requirements applicable to the performance of this Agreement. Each party shall be liable for its actions in accordance with this Agreement. Any liability incurred by the County or the City in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act NMSA 1978, Section 41-4-1, et. seq. and as amended. The County, City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity; do not waive any defense; and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.
5. **AMENDMENT:** This Agreement shall not be altered, changed, or amended except by an instrument executed in writing signed by all parties.
6. **APPROPRIATIONS:** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico and the governing body of the County and the City for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by the terminating party to the other party. Any party's decision as to whether sufficient appropriations are available shall be accepted by the other party and shall be final.
7. **GOVERNING LAW:** This Agreement shall be governed by, and construed in accordance with, the laws of New Mexico.
8. **ACCOUNTABILITY:** During the term of this Agreement and for a period of three years thereafter, each of the parties will maintain accurate and complete records of all

disbursements made and monies received by each under this Agreement; and, upon receipt of reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

9. **NO THIRD PARTY BENEFICIARIES:** Nothing in this Agreement, express or implied, is intended to confer any rights, remedies, claims or interests upon a person not a party to this Agreement.
10. **ENTIRE AGREEMENT:** This Agreement represents the entire understanding between the County and the City and supersedes any prior agreements or understandings with respect to the subject of this Agreement. No changes, amendments or alterations to this Agreement will be effective until in writing and signed by the parties

IN WITNESS WHEREOF, the parties set their hands:

CITY OF SANTA FE:


Javier M. Gonzales, Mayor
City of Santa Fe

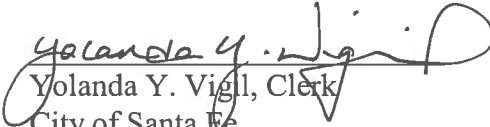
Date: 12/4/15

SANTA FE COUNTY



Katherine Miller
Santa Fe County Manager

Date: 10.6.15

ATTESTATION:

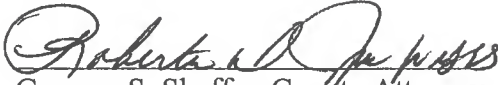

Yolanda Y. Vigil, Clerk
City of Santa Fe
CC mtg. 12/9/15

Approved as to form:


Kelley Brennan, City Attorney
City of Santa Fe


Date: 10/19/15

Approved as to form:

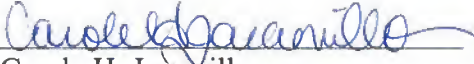

Gregory S. Shaffer, County Attorney
Santa Fe County

Date: 9/29/15

Approved:

 12-11-2015
Oscar Rodriguez
Finance Director
City of Santa Fe

Approved:


Carole H. Jaramillo
Finance Division Director
Santa Fe County